

### REMARKS

Reconsideration is respectfully requested.

Entry of the above amendments is courteously requested in order to place all claims in this application in allowable condition and/or to place the non-allowed claims in better condition for consideration on appeal.

The Examiner's rejections will be considered in the order of their occurrence in the Office Action.

#### Paragraph 1 of the Office Action

The drawings have been objected to.

Claim 7, which recites the "housing", has been cancelled, in this response, and therefore the housing is no longer part of the claims, and not required to be shown in the drawings under the cited rule. However, it is noted that the housing is clearly shown "extending outwardly from one of said prong-like members" in Figures 5 and 6 of the drawings originally filed in this application.

Withdrawal of the objection to the drawings is respectfully requested.

#### Paragraphs 2 through 4 of the Office Action

Claims 1 through 6, 12, and 15 through 20 have been rejected under 35 U.S.C. Section 103(a) as being unpatentable over Sommer (U.S. 3,006,273) in view of Dunn (U.S. 4,176,458).

Claims 7, 9 through 11, and 14 have been rejected under 35 U.S.C. Section 103(a) as being unpatentable over Sommer (U.S. 3,006,273) in view of Dunn (U.S. 4,176,458), Simpson (U.S. 4,176,458), Edgar et al. (U.S. 5,884,240) [hereinafter Edgar] and Kaufman (U.S. 5,416,978).

Claim 12, particularly as amended, requires "wherein said means for marking stud locations includes a plurality of wheels, each said wheel of said plurality of wheels having a circumference with a circumference extent with a measurement different from other wheels of said plurality of

wheels such that distances between markings produced by each wheel of said plurality of wheels are different from wheel to wheel". This feature of the claimed invention permits the user to easily and accurately change the spacings between marks produced by the claimed device, without being concerned if adjustments have been made correctly and if the adjusted size of the wheel is accurate after the adjustment.

The Sommer reference teaches a single wheel that has an adjustable perimeter so that the circumference may be adjusted for different spacings. This is a system that relies upon the user making correct adjustments of the perimeter, as there is no teaching of any means for indicating the particular circumference size at any particular slot adjustment. Thus, it is submitted that a chance for error in establishing the circumference of the wheel and the spacing between marks is introduced in the use of the Simpson device. This problem is avoided by the claimed invention, and especially the claimed feature of multiple wheels of fixed, but different, circumference. Moreover, it is submitted that the teaching by Simpson of a single, adjustable perimeter wheel could only lead one skilled in the art away from multiple wheels of fixed circumference size. Similarly, Dunn teaches a single wheel and therefore, in any allegedly obvious combination with the Sommer reference, could not lead one skilled in the art to the claim 12 requirements of multiple wheels of different circumferences.

Claim 12 also requires "said base member further including a pair of slots each of which extends in a bottom end of a respective one of said prong-like members" and "said means for marking stud locations further including an axle member securely and centrally attached to either side of said wheel and being adapted to being removably retained in said slots in said base member, wherein said wheel is removably mounted on said base member". Due to the need to interchange the wheels of the claimed invention to change the spacing between marks, this feature of the claimed invention is submitted to facilitate easy and fast changing of the

wheels by simply sliding the axle member into the slots of the base member, and does not require the use of tools.

As noted above, both the Sommer and the Dunn references teach wheels that are *not* intended to be changed and thus are more or less permanently mounted on the devices. The Sommer reference appears to teach some type of rivet or other non-removable mounting and the Dunn reference teaches a bolt head that must be removed with a wrench. Thus, the cited prior art either makes it impossible, or at least inconvenient (by requiring that tools be carried with it during use), to remove and replace the wheel on the particular device. This is not surprising because, as noted above, neither of these teachings requires, or leads one to, any interchange of wheels.

It is therefore submitted that the prior art, and especially the allegedly obvious combination of Sommer and Dunn set forth in the rejection of the Office Action, would not lead one skilled in the art to the applicant's invention as required by claim 12.

Withdrawal of the §103(a) rejection of claim 12 is therefore respectfully requested.